

No. 22-11707

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

◆

PAUL A. EKNES-TUCKER, et al.,
Plaintiffs-Appellees,

&

UNITED STATES OF AMERICA
Intervenor-Plaintiff-Appellee,

v.

GOVERNOR OF THE STATE OF ALABAMA, et al.,
Defendants-Appellants.

◆

On Appeal from the United States District Court
for the Middle District of Alabama
Case No. 2:22-cv-184-LCB

**APPELLANTS' UNOPPOSED MOTION FOR EXPEDITED BRIEFING
AND APPELLATE REVIEW**

Christopher Mills
SPERO LAW LLC
557 East Bay St.,
#22251
Charleston, SC 29451
(843) 606-0640
cmills@spero.law

Steve Marshall
Attorney General
Edmund G. LaCour Jr.*
Solicitor General
A. Barrett Bowdre
Thomas A. Wilson
Deputy Solicitors General
James W. Davis
Deputy Attorney General
Benjamin M. Seiss
Assistant Attorney General
STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL
501 Washington Ave.
Montgomery, AL 36130
(334) 242-7300
Edmund.LaCour@AlabamaAG.gov

May 24, 2022

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1(a)(3) and 26.1-2(b), the undersigned counsel certifies that the following listed persons and parties may have an interest in the outcome of this case:

1. Academic Pediatric Association – Amicus Curiae;
2. Alabama Chapter of the American Academy of Pediatrics – Amicus Curiae;
3. Alaska, State of – Amicus Curiae;
4. American Academy of Child and Adolescent Psychiatry – Amicus Curiae;
5. American Academy of Family Physicians – Amicus Curiae;
6. American Academy of Pediatrics – Amicus Curiae;
7. American Academy of Nursing – Amicus Curiae;
8. American Association of Physicians for Human Rights, Inc. – Amicus Curiae;
9. American College of Obstetricians and Gynecologists – Amicus Curiae;
10. American College of Osteopathic Pediatricians – Amicus Curiae;
11. American College of Physicians – Amicus Curiae;
12. American Medical Association – Amicus Curiae;
13. American Pediatric Society – Amicus Curiae;

14. American Psychiatric Association – Amicus Curiae;
15. Association of American Medical Colleges – Amicus Curiae;
16. Association of Medical School Pediatric Department Chairs – Amicus Curiae;
17. Anderson, Tom – Defendant;
18. Arizona, State of – Amicus Curiae;
19. Arkansas, State of – Amicus Curiae;
20. Baia, Elizabeth – Counsel for Amici Curiae;
21. Bailey, Daryl D. – Defendant;
22. Baylock, C. Wilson – Defendant;
23. Boe, Brianna – Plaintiff (pseudonym);
24. Bowdre, Alexander Barrett – Counsel for Defendants;
25. Burke, Liles C. – U.S. District Court Judge;
26. Cantrell, Michael A. – Counsel for Amici Curiae;
27. Carr, Danny – Defendant;
28. Cheek, Jason R. – Counsel for Intervenor-Plaintiff;
29. Davis, James William – Counsel for Defendants;
30. Doss, Jeffrey P. – Counsel for Plaintiffs;
31. Eagan, Melody Hurdle – Counsel for Plaintiffs;
32. Endocrine Society (The) – Amicus Curiae;
33. Eknes-Tucker, Paul A. – Plaintiff;

34. Escalona, Elizabeth Prim Formby – Counsel for Intervenor-Plaintiff;
35. Georgia, State of – Amicus Curiae;
36. Hecker, Elizabeth P. – Appellate Counsel for Intervenor-Plaintiff;
37. Indiana, State of – Amicus Curiae;
38. Isasi, William – Counsel for Amici Curiae;
39. Ivey, Kay – Defendant;
40. Koe, Rachel – Plaintiff (pseudonym);
41. LaCour, Edmund G. (Jr.) – Counsel for Defendants;
42. Lannin, Cortlin H. – Counsel for Amici Curiae;
43. Lanosa, Michael – Counsel for Amici Curiae;
44. Lareau, Alyssa C. – Counsel for Intervenor-Plaintiff;
45. Levi, Jennifer L. – Counsel for Plaintiffs;
46. Louisiana, State of – Amicus Curiae;
47. Marshall, Steve – Defendant;
48. McCoy, Scott D. – Counsel for Plaintiffs;
49. Medical Association of Pediatric Nurse Practitioners – Amicus Curiae;
50. Mills, Christopher Ernest – Counsel for Defendants;
51. Mississippi, State of – Amicus Curiae;
52. Missouri, State of – Amicus Curiae;
53. Moe, Jane – Plaintiff (pseudonym);
54. Montag, Coty Rae – Counsel for Intervenor-Plaintiff;

55. Montana, State of – Amicus Curiae;
56. Nebraska, State of – Amicus Curiae;
57. Noe, Kathy – Plaintiff (pseudonym);
58. Oklahoma, State of – Amicus Curiae;
59. Oladeinbo, Gilbert Olusengun – Counsel for Plaintiffs;
60. Orr, Asaf – Counsel for Plaintiffs;
61. Pediatric Endocrine Society – Amicus Curiae;
62. Peterson, Misty L. – Counsel for Plaintiffs;
63. Poe, Megan – Plaintiff (pseudonym);
64. Powers, John Michael – Counsel for Intervenor-Plaintiff;
65. Pratt, James Andrew – Counsel for Plaintiffs;
66. Ragsdale, Barry Alan – Counsel for Amici Curiae;
67. Ray, Brent P. – Counsel for Plaintiffs;
68. Reinke, Adam – Counsel for Plaintiffs;
69. Robin-Vergeer, Bonnie – Appellate Counsel for Intervenor-Plaintiff;
70. Seiss, Benjamin Matthew – Counsel for Defendants;
71. Shortnacy, Michael B. – Counsel for Plaintiffs;
72. Schwabauer, Barbara – Appellate Counsel Intervenor-Plaintiff;
73. Societies for Pediatric Urology – Amicus Curiae;
74. Society of Adolescent Health and Medicine – Amicus Curiae;
75. Society for Pediatric Research – Amicus Curiae;

76. Society of Pediatric Nurses – Amicus Curiae;
77. Soto, Diego Armando – Counsel for Plaintiffs;
78. South Carolina, State of – Amicus Curiae;
79. Stewart, Sandra Jean – Counsel for Intervenor-Plaintiffs;
80. Stone, Jessica Lynn – Counsel for Plaintiffs;
81. Terry, Abigail Hoverman – Counsel for Plaintiffs;
82. Texas, State of – Amicus Curiae;
83. Toyama, Kaitlin – Counsel for Intervenor-Plaintiff;
84. United States of America – Intervenor-Plaintiff;
85. Utah, State of – Amicus Curiae;
86. Wadsworth, Stephen D. – Counsel for Intervenor-Plaintiff;
87. Warbelow, Sarah – Counsel for Plaintiffs;
88. West Virginia, State of – Amicus Curiae;
89. Wilkerson, Mark Douglas – Counsel for Amici Curiae;
90. Williams, Renee – Counsel for Intervenor-Plaintiff;
91. Wilson, Thomas Alexander – Counsel for Defendants;
92. Woodke, Lane Hines – Counsel for Intervenor-Plaintiff;
93. World Professional Association for Transgender Health – Amicus Curiae;
94. Vague, Amie A. – Counsel for Plaintiffs;
95. Vance, Robert S. (III) – Counsel for Amici Curiae;

96. Ventiere, Jessica – Defendant;
97. Veta, D. Jean – Counsel for Amici Curiae;
98. Walker, Susan Russ – Magistrate Judge;
99. Weaver, Cynthia Cheng-Wun – Counsel for Plaintiffs;
100. Zoe, James – Plaintiff (pseudonym).

Respectfully submitted this 24th day of May, 2022.

s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Counsel for Defendants-Appellants

UNOPPOSED MOTION FOR EXPEDITED BRIEFING AND APPELLATE REVIEW

Appellants respectfully move this Court to enter an accelerated briefing schedule agreed to by the parties and expedite review of this appeal. There is good cause to do so. In April of this year, Alabama enacted a law that, as relevant here, prohibits the administration of puberty blockers and cross-sex hormones to minors for the purpose of gender transition. As the Legislature explained in its detailed factual findings, administering these interventions to treat gender dysphoria in children is poorly studied and comes with significant risks of long-term harms, including permanent sterility, loss of sexual function, increased risk of heart attack and stroke, bone-density problems, and risk of altered brain development. *See* Doc. 69-1 at 2-6. The Legislature determined that, for now at least, the risks of these treatments outweigh their benefits, and thus encouraged in their stead low-risk treatments such as counseling and psychotherapy that have proven effective in helping children suffering from gender dysphoria. In this, Alabama followed the recent lead of medical authorities in the United Kingdom, Sweden, Finland, France, New Zealand, and Australia that have likewise surveyed the medical literature and urged increased caution when it comes to prescribing powerful drugs to transition children.

After Alabama enacted the law, four sets of parents and children, two doctors, and a pastor sued the Alabama Attorney General and five district attorneys seeking a preliminary injunction against enforcement of the law. The United States also

intervened as a plaintiff and sought a preliminary injunction. Though recognizing that administering puberty blockers and cross-sex hormones to children can result in “loss of fertility and sexual function,” Doc. 112-1 at 3,¹ the district court preliminarily enjoined defendants from enforcing the prohibitions against anyone in the State. The court held that the provisions likely violate a substantive due process right of parents to obtain medical procedures for their children and the equal protection rights of children who were prohibited from receiving the procedures. *See* Doc. 112-1.

These are issues of first impression for this Court and thus warrant full briefing and oral argument. At the same time, given the legislative findings and record evidence about the significant life-long risks of the medical interventions at issue, the appeal should be resolved on an expedited basis. The parties have worked together to propose a briefing schedule that balances these needs:

- Opening Brief: June 27, 2022
- Response Briefs: August 10, 2022
- Reply Brief: August 31, 2022

This schedule allows for a normal 40-day and 21-day period for Appellants’ opening and reply briefs, respectively, and a 14-day extension for the Appellees’ and Intervenor-Appellees’ response briefs. This represents a compromise from the more

¹ The district court issued its preliminary injunction opinion and order on May 13, 2022. *See* Doc. 107. Since then it has issued two sets of corrections to the order. *See* Docs. 110-1 and 112-1.

expedited schedule Appellants initially proposed to Appellees, and will still allow briefing to conclude much more quickly than in the normal course if parties received full extensions. Appellants respectively request that the Court set oral argument for as soon as possible after briefing concludes.

CONCLUSION

The Court should enter the briefing schedule proposed by the parties and specially set oral argument to expedite consideration of this appeal.

Christopher Mills
SPERO LAW LLC
557 East Bay Street
#22251
Charleston, SC 29451
Telephone: (843) 606-0640
cmills@spero.law

Respectfully submitted,
Steve Marshall
Alabama Attorney General

s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Solicitor General

A. Barrett Bowdre
Thomas A. Wilson
Deputy Solicitors General

James W. Davis
Deputy Attorney General

Benjamin M. Seiss
Assistant Attorney General

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: (334) 242-7300
Fax: (334) 353-8400
Edmund.LaCour@AlabamaAG.gov
Barrett.Bowdre@AlabamaAG.gov
Thomas.Wilson@AlabamaAG.gov

Jim.Davis@AlabamaAG.gov
Ben.Seiss@AlabamaAG.gov

Counsel for Defendants-Appellants

MAY 24, 2022

CERTIFICATE OF COMPLIANCE

1. I certify that this motion complies with the type-volume limitations set forth in Fed. R. App. P. 27(d)(2)(A). This motion contains 543 words, including all headings, footnotes, and quotations, and excluding the parts of the response exempted under Fed. R. App. P. 32(f).

2. In addition, this response complies with the typeface and type style requirements of Fed. R. App. P. 32(a)(5) and (6) because it has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14-point Times New Roman font.

s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Counsel for Defendants-Appellants

CERTIFICATE OF SERVICE

I certify that on May 24, 2022, I electronically filed this document using the Court's CM/ECF system, which will serve counsel of record.

s/ Edmund G. LaCour Jr.
Edmund G. LaCour Jr.
Counsel for Defendants-Appellants